

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

ALAN JOHNSON, JR.

PETITIONER

VS.

CIVIL ACTION NO. 3:22CV715TSL-MTP

TYREE JONES

RESPONDENT

ORDER

This cause is before the court on the report and recommendation of Magistrate Judge Michael T. Parker entered on May 16, 2023, recommending that respondent Tyree Jones' motion to dismiss be granted and that the § 2241 petition be dismissed. Petitioner Alan Johnson, Jr. filed a one-page objection in which he recites only that "he does object to the report and recommendation." Having reviewed the report and recommendation, the court concludes that it is well taken and should be adopted as the opinion of the court.

Therefore, it is ordered that the report and recommendation of United States Magistrate Judge Michael T. Parker entered on May 16, 2022, be, and the same is hereby, adopted as the finding of this court. Accordingly, it follows that the respondent's motion to dismiss is granted and that the petition is dismissed without prejudice.

Further, to obtain a certificate of appealability (COA), Johnson must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); see Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). He may satisfy "this standard by demonstrating that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." Miller-El, 537 U.S. at 327. When the court denies relief on procedural grounds, "a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." Slack v. McDaniel, 529 U.S. 473, 484 (2000). Johnson has not satisfied this standard. Accordingly, a COA shall not issue in this case.

A separate judgment will be entered in accordance with Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED this 14th day of June, 2023.

/s/ Tom S. Lee
UNITED STATES DISTRICT JUDGE